

REMARKS

Claims 1-7, 9-15, 18-34, 55, 62-73 and 75-92 were previously pending in this application. Claims 1, 13, 18, 62 and 79 are amended. No claims are canceled and no claims are amended by this amendment. As a result, claims 1-7, 9-15, 18-34, 55, 62-73 and 75-92 are pending for examination with claims 1, 13, 18, 62, and 79 being independent claims. No new matter has been added.

Patent Office Error in Abandonment

Applicant respectfully asserts that the Patent Office abandoned this application in error and requests a refund of the fee of \$1,620.00 paid herewith for the Petition to Revive. Applicant filed a Pre-appeal Brief Conference Request on July 16, 2010. A Pre-appeal Brief Conference Decision subsequently issued on September 2, 2010, leaving the application under appeal.

Applicant notes that the period for reply following such a decision is reset to one month from the mailing date of the decision with extensions of time available (see paragraph 7, USPTO Official Gazette Notice: July 12, 2005). As a result, Applicant has until March 2, 2011 to file a reply. Thus, the Notice of Abandonment issued January 21, 2011, was issued in error. Because this reply is otherwise timely filed in view of the Decision, the requirement to file to a Petition to Revive to maintain the application is solely the error of the Patent Office. Applicant respectfully requests a full refund of the petition fee of \$1,620.00 paid herewith.

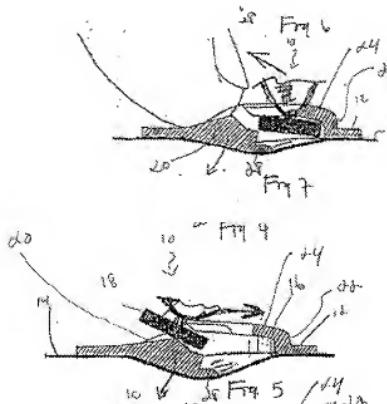
Rejections Under 35 U.S.C. §102

The Office Action rejects claims 1-3, 5-7, 9-11, 18-20, 22-27, 30-34, 55, 62-64, 66-71, 73, 75-76, 79-80, 82, 85-86 and 89-92 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,098,858 to Laugesen (hereinafter Laugesen). This rejection includes a rejection of each of the pending independent claims. Applicant respectfully asserts each of the pending independent claims is allowable in view of Laugesen because the independent claims recite structure which is not found in Laugesen; and 2) because there is structure that clearly appears in Laugesen and is disclaimed in the claims.

The pending independent claims are generally directed to a fastener assembly (claims 1, 13, 62 and 79) including a fastener (10) and a fastening element (18), and a fastener that retains a fastening element (claim 18). As described in detail herein, the errors concern claims, referring

to independent claim 79 as one example, that recite a “fastening element” can be removed from a “housing” included in a “fastener … **only** when the latch [also included in the fastener] is depressed *by an application of a force directly to a surface of the latch proximate the opening* and only by sliding the fastening element from the housing via the opening.”

Fig. 7 of the application clearly illustrates a force being applied directly to the surface proximate the opening by a fingertip of a user with the fastening element 18 retained in the housing 16 (see also Fig. 5, for reference characters). Further, each of independent claims 1, 13, 62 and 79 recite both a “fastener element” and a “fastener” where the fastener includes “a surface” that is “proximate the opening” in the housing, and where, the “**surface** is externally accessible or exposed “with the fastening element retained in the housing.” Similarly, independent claim 18 recites a “fastener [10]” including a “housing [16] … adapted to retain a fastening element [18]” and a ‘latch [20]” comprising a “first portion” which is “externally accessible with the fastening element retained in the housing” and “is located adjacent an opening in the housing by which the fastening element is inserted into and removed from the housing.”



Applicant respectfully asserts that Laugesen does not describe structure that includes a fastener (including the recited housing, latch, opening and surface proximate the opening) and a

fastening element where the fastening element can be removed from the housing “*only* when the latch is depressed *by an application of a force directly to a surface of the latch proximate the opening*” where “*the surface is externally accessible with the fastening element retained in the housing.*” As recited in each of claims 1, 13 and 62, the force is “*applied directly to* the surface proximate the opening” while in claim 18 the force is “*applied directly to* the first portion.” The highlighted text in the immediately preceding quote expressly indicates: 1) that the fastener assembly is configured to allow removal of the fastening element using only one approach such that no alternatives are available to remove the fastening element from the housing during normal use; and 2) that the fastener assembly is configured such that the force must be applied directly to the surface. In view of the plain language of the claims and the disclosure provided by the specification and drawings, recitation of “an application of a force directly to” in claim 79 and a force “applied directly to” in each of claims 1, 13, 18 and 62 will clearly be understood by those of ordinary skill in the art to require direct contact with the “surface” in the case of claims 1, 13, 62 and 79 and direct contact with the “first portion” in the case of claim 18.

In contrast, Laugesen expressly describes structure in the form of “a push button 12” to pivot the integral portion 13 where the push button 12 is clearly not a surface proximate an opening. In particular, Laugesen describes a holder for a cellular telephone in which a button 7 affixed at the back of the cellular phone is received in a receiving passage 5 of the holder. (See Figs. 1-3.) Laugesen states that to remove the cellular telephone 8 from the holder the “the push button 12 is pushed down which means that the integral portion 13 consisting of the resilient stop 10 and the push button 12 as a whole will pivot in the direction of the arrow F in FIG. 2.” (Col. 3, lines 41-44.)

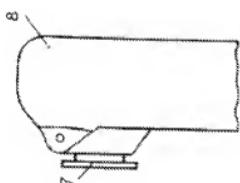


Fig. 3

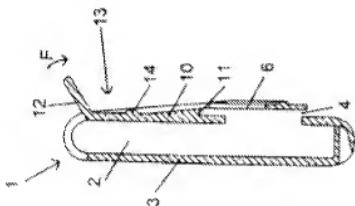


Fig. 2

As is clearly seen in Figs. 2 and 3 of Laugesen, the push button 12 which a user employs to release the cellular telephone 8 is included in the holder 1 in a location that places the push button remote from the receiving passage 5 (see Fig. 1 for identification of passage 5). Because the push button 12 is located remote from the receiving passage 5, it is clearly erroneous to view an operation of the push button 12 as somehow applying a force “directly to a surface proximate the opening,” as recited in claims 1, 13, 62 and 79 or “directly to the first portion” as recited in claim 18.

In addition, Laugesen also fails to describe “a surface that is proximate the opening in the housing, wherein the surface is externally accessible with the fastening element retained in the housing.” (Emphasis added.) Figs. 2 and 3 of Laugesen illustrate the cellular telephone 8 and the holder 1 in profile. As illustrated in Figs. 2 and 3, the top of the cellular telephone and the top of the holder appear to the left. These figures illustrate that when the cellular telephone 8 is held by the holder 1 via insertion of the button 7 into the receiving passage 5, the top of the cellular telephone 8 physically blocks access to any region which is proximate the receiving passage 5, the retaining edge 11 and any portion of the resilient stop 10 adjacent the retaining edge 11. Referring to claim 79 as an example, the structure described by Laugesen prevents any “surface proximate the opening [through which the fastening element is inserted and removed from the housing]” from being “exposed” with a “fastening element retained in the housing.”

Applicant also notes that the structure which is described in Laugesen includes a “torsion element 14” which provides a resistance resulting in the “pivoting of the integral portion 13” being very restricted.” (col. 3, lines 48-49.) The preceding feature results in a structure that requires that a user apply leverage to pivot the integral portion 13. Accordingly, the push button 12 protrudes away from the remainder of the holder 1. Because the only region of the holder 1 which is accessible with the cellular telephone 8 secured in the holder 1 begins in the vicinity of the torsion element 14, a user is unable access any portion in the vicinity of the receiving passage of the holder 1 that would allow the integral portion to pivot, let alone provide force directly to a surface proximate an opening.

For at least all of the above reasons, Applicant respectfully asserts that independent claims 1, 13, 18, 62 and 79 are patentable in view of Laugesen. Each of claims 2, 3, 5-7, 9-11, 19, 20, 22-27, 30-34, 55, 63, 64, 66-71, 73, 75-76, 80, 82, 85-86 and 89-92 depends from one of the allowable independent claims and is therefore allowable at least for the same reasons as the independent claim from which it depends, respectively. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 5-7, 9-11, 18-20, 22-27, 30-34, 55, 62-64, 66-71, 73, 75-76, 79-80, 82, 85-86 and 89-92 under 35 U.S.C. §102(b).

Rejections Under 35 U.S.C. §103

The Office Action rejects claims 4, 12, 21, 28-29, 65, 72, and 71 under 35 U.S.C. §103(a) as being unpatentable over Laugesen. Each of claims 4, 12, 21, 28-29, 65, 72, and 71 depends from one of the independent claims. As described above, Applicant respectfully asserts that Laugesen does not describe, teach or suggest the limitations recited in the pending independent claims. Accordingly, Applicant respectfully asserts that each of claims 4, 12, 21, 28-29, 65, 72, and 71 is therefore allowable at least for the same reasons as the independent claim from which it depends, respectively. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims under 35 U.S.C. §103(a) as being unpatentable over Laugesen.

The Office Action rejects claims 77-78, 83-84 and 87-88 under 35 U.S.C. §103(a) as being unpatentable over Laugesen in view of U.S. Patent No. 4,681,552 to Courtney (hereinafter Courtney). Each of claims 77-78, 83-84 and 87-88 depends from one of the independent claims which is allowable in view of Laugesen and each is allowable for at least the same reason as the

independent claim from which it depends, respectfully. Applicant respectfully asserts that Courtney does not cure the deficiencies of Laugesen. Accordingly, claims 77-78, 83-84 and 87-88 are patentable over Laugesen in view of Courtney because Laugesen and Courtney, either alone or in proper combination, do not teach or suggest all the limitations recited in claims 77-78, 83-84 and 87-88. For at least all of the above reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 77-78, 83-84 and 87-88 under 35 U.S.C. §103(a).

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

A payment for a five month extension of time is included herewith. If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by the accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Reference No. C0852-7013.

Respectfully submitted,
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